

ASSEMBLY BILL

No. 2257

Introduced by Assembly Member Aroner

February 24, 2000

An act to amend Sections 15432, 15438, 15438.5, 15439, 15440, and 15441 of, and to repeal Sections 15438.1, 15461, and 15463 of, the Government Code, and to amend Section 127300 of the Health and Safety Code, relating to health facility financing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2257, as introduced, Aroner. Health facility financing.

Under existing law, the California Health Facilities Financing Authority Act, there is a California Health Facilities Financing Authority that is empowered to make loans under certain conditions from the continuously appropriated California Health Facilities Financing Authority Fund to nonprofit corporations or associations for financing or refinancing of the acquisition, construction, or remodeling of health facilities, as defined, including hospitals.

Existing law authorizes the authority to issue revenue bonds for certain purposes.

This bill would define revenue bonds for those purposes.

Existing law provides that no project shall be eligible for approval under the California Health Facilities Financing Authority Act unless a certificate of need has first been obtained, a certificate of exemption has been obtained, or the project is exempt from certification of need or exemption review and approval, and suspends that requirement.

This bill would repeal that provision, and would make conforming changes.

This bill would revise statutory authority to issue revenue bonds under the California Health Facilities Financing Authority Act.

Existing law authorizes the authority to pledge any of the money in the continuously appropriated fund as security for payment of the principal and interest of any particular issuance of bonds under the California Health Facilities Financing Authority Act.

This bill would extend that statutory authorization to include the pledge of money in the fund to include certain secured or unsecured loans. Because the bill would expand the purposes for which a continuously appropriated fund may be used, the bill would make an appropriation.

Existing law limits the expenses the authority may incur in carrying out the California Health Facilities Financing Authority Act, with the exception of expenses for the initial organization and operation of the authority.

This bill would repeal that exception.

Existing law specifies that the issuance of all revenue bonds shall be authorized by resolution of the authority and shall bear date or dates, and mature at a particular time or times, not exceeding 40 years from their respective dates.

This bill would extend the maximum authorized maturity date to 60 years from their respective dates.

Existing law specifies the uses for a specified portion of the initial amount of bonds outstanding under the California Health Facilities Financing Authority Act.

This bill would repeal that provision.

Existing law provides for the continuously appropriated County Health Facilities Financing Assistance Fund, and authorizes the use of money in the fund to provide assistance to counties to pay the debt service on loans for, or otherwise assist, in the financing of certain facilities.

This bill would delete that fund.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) “Act” means the California Health Facilities Financing Authority Act.

(b) “Authority” means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) “Cost,” as applied to a project or portion of a project financed under this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing or necessary or incident to determining the feasibility of constructing, any project or incident to the construction or acquisition or financing of any project.

(d) “Health facility” means any facility, place, or building which is organized, maintained, and operated

1 for the diagnosis, care, prevention, and treatment of
2 human illness, physical or mental, or developmental
3 disability, including convalescence and rehabilitation and
4 including care during and after pregnancy, or for any one
5 or more of these purposes, for one or more persons, to
6 which the persons are admitted for a 24-hour stay or
7 longer, except in the cases of county outpatient facilities,
8 adult day care facilities, as defined under paragraph (2)
9 of subdivision (a) of Section 1502 of the Health and Safety
10 Code, which provide services to developmentally
11 disabled or mentally impaired persons, community
12 clinics, as defined in paragraph (6), and child day care
13 facilities, as defined in paragraph (10), and includes all of
14 the following types:

15 (1) A general acute care hospital which is a health
16 facility having a duly constituted governing body with
17 overall administrative and professional responsibility and
18 an organized medical staff which provides 24-hour
19 inpatient care, including the following basic services:
20 medical, nursing, surgical, anesthesia, laboratory,
21 radiology, pharmacy, and dietary services.

22 (2) An acute psychiatric hospital which is a health
23 facility having a duly constituted governing body with
24 overall administrative and professional responsibility and
25 an organized medical staff which provides 24-hour
26 inpatient care for mentally disordered, incompetent, or
27 other patients referred to in Division 5 (commencing
28 with Section 5000) or Division 6 (commencing with
29 Section 6000) of the Welfare and Institutions Code,
30 including the following basic services: medical, nursing,
31 rehabilitative, pharmacy, and dietary services.

32 (3) A skilled nursing facility which is a health facility
33 which provides the following basic services: skilled
34 nursing care and supportive care to patients whose
35 primary need is for availability or skilled nursing care on
36 an extended basis.

37 (4) An intermediate care facility which is a health
38 facility which provides the following basic services:
39 inpatient care to ambulatory or semiambulatory patients
40 who have recurring need for skilled nursing supervision

1 and need supportive care, but who do not require
2 availability or continuous skilled nursing care.

3 (5) A special health care facility which is a health
4 facility having a duly constituted governing body with
5 overall administrative and professional responsibility and
6 an organized medical or dental staff which provides
7 inpatient or outpatient, acute or nonacute care,
8 including, but not limited to, medical, nursing,
9 rehabilitation, dental, or maternity.

10 (6) A community clinic which is a clinic operated by
11 a tax-exempt nonprofit corporation which is supported
12 and maintained in whole or in part by donations,
13 bequests, gifts, grants, government funds or
14 contributions, which may be in the form of money, goods,
15 or services. In a community clinic, any charges to the
16 patient shall be based on the patient's ability to pay,
17 utilizing a sliding fee scale. No corporation other than a
18 nonprofit corporation, exempt from federal income
19 taxation under paragraph (3) of subsection (c) of Section
20 501 of the Internal Revenue Code of 1954 as amended, or
21 a statutory successor thereof, shall operate a community
22 clinic. However, the licensee of any community clinic so
23 licensed on September 26, 1978, shall not be required to
24 obtain tax-exempt status under either federal or state law.
25 No natural person or persons shall operate a community
26 clinic.

27 (7) An adult day health center which is a facility, as
28 defined under subdivision (b) of Section 1570.7 of the
29 Health and Safety Code, which provides adult day health
30 care, as defined under subdivision (a) of Section 1570.7 of
31 the Health and Safety Code.

32 (8) Any other type of facility for the provision of
33 inpatient or outpatient care which is a county health
34 facility, as defined in subdivision (a) of Section 16715 of
35 the Welfare and Institutions Code, (without regard to
36 whether funding is provided for the facility under that
37 section).

38 (9) A multilevel facility is an institutional arrangement
39 where a residential facility for the elderly is operated as
40 a part of, or in conjunction with, an intermediate care

1 facility, a skilled nursing facility, or a general acute care
2 hospital. “Elderly,” for the purposes of this paragraph,
3 means a person 62 years of age or older.

4 (10) A child day care facility operated in conjunction
5 with a health facility. A child day care facility is a facility,
6 as defined in Section 1596.750 of the Health and Safety
7 Code. For purposes of this paragraph, “child” means a
8 minor from birth to 18 years of age.

9 (11) An intermediate care facility/developmentally
10 disabled habilitative which is a health facility, as defined
11 under subdivision (e) of Section 1250 of the Health and
12 Safety Code.

13 (12) An intermediate care facility/developmentally
14 disabled-nursing which is a health facility, as defined
15 under subdivision (h) of Section 1250 of the Health and
16 Safety Code.

17 (13) A community care facility which is a facility, as
18 defined under subdivision (a) of Section 1502 of the
19 Health and Safety Code, which provides care,
20 habilitation, rehabilitation, or treatment services to
21 developmentally disabled or mentally impaired persons.

22 (14) A nonprofit community care facility, as defined in
23 subdivision (a) of Section 1502 of the Health and Safety
24 Code, other than a facility which, as defined in that
25 subdivision, is a residential facility for the elderly, a foster
26 family agency, a foster family home, a full service
27 adoption agency, or a noncustodial adoption agency.

28 (15) A nonprofit accredited community work-activity
29 program, as specified in subdivision (e) of Section 19352
30 and Section 19355 of the Welfare and Institutions Code.

31 (16) *A community mental health center, as defined in*
32 *paragraph (3) of subdivision (b) of Section 5667 of the*
33 *Welfare and Institutions Code.*

34 “Health facility” includes a clinic which is described in
35 subdivision (l) of Section 1206 of the Health and Safety
36 Code.

37 “Health facility” includes the following facilities, if
38 operated in conjunction with one or more of the above
39 types of facilities: a laboratory, laundry, nurses or interns
40 residence, housing for staff or employees and their

1 families, patients or relatives of patients, physicians'
2 facility, administration building, research facility,
3 maintenance, storage, or utility facility and all structures
4 or facilities related to any of the foregoing or required or
5 useful for the operation of a health facility, and the
6 necessary and usual attendant and related facilities and
7 equipment and including parking and supportive service
8 facilities or structures required or useful for the orderly
9 conduct of such health facility.

10 ~~“Health facility” also includes: (i) an insurance~~
11 ~~company or insurance program organized pursuant to~~
12 ~~subdivision (q) of Section 15438; or (ii) the funding of~~
13 ~~reserves (including insurance or capital reserves), or~~
14 ~~payment of premiums to, a reciprocal insurance company~~
15 ~~or one or more participating health institutions if the~~
16 ~~funds are used in connection with one or more of the~~
17 ~~above types of facilities: liability insurance or~~
18 ~~self-insurance, for a participating health institution,~~
19 ~~including reserves therefor, and other funds necessary or~~
20 ~~usual and appropriate in connection therewith.~~

21 “Health facility” does not include any institution, place,
22 or building used or to be used primarily for sectarian
23 instruction or study or as a place for devotional activities
24 or religious worship.

25 (e) “Participating health institution” means a city, city
26 and county, county, a district hospital, or a private
27 nonprofit corporation or association authorized by the
28 laws of this state to provide or operate a health facility and
29 which, pursuant to the provisions of this part, undertakes
30 the financing or refinancing of the construction or
31 acquisition of a project or of working capital as provided
32 in this part.

33 (f) “Project” means construction, expansion,
34 remodeling, renovation, furnishing, or equipping, or
35 funding or financing of a health facility or acquisition of
36 a health facility to be financed or refinanced with funds
37 provided in whole or in part pursuant to this part.
38 “Project” may include any combination of one or more of
39 the foregoing undertaken jointly by any participating

1 health institution with one or more other participating
2 health institutions.

3 (g) “Revenue bond” means any bond, warrant, note,
4 lease, or installment sale obligation that is evidenced by
5 a certificate of participation or other evidence of
6 indebtedness issued by the authority.

7 (h) “Working capital” means moneys to be used by, or
8 on behalf of, a participating health institution to pay or
9 prepay maintenance or operation expenses or any other
10 costs that would be treated as an expense item, under
11 generally accepted accounting principles, in connection
12 with the ownership or operation of a health facility,
13 including, but not limited to, reserves for maintenance or
14 operation expenses, interest for not to exceed one year on
15 any loan for working capital made pursuant to this part,
16 and reserves for debt service with respect to, and any
17 costs necessary or incidental to, that financing.

18 SEC. 2. Section 15438 of the Government Code is
19 amended to read:

20 15438. ~~Subject to the conditions, restrictions, and~~
21 ~~limitations of Section 15438.1, the~~ The authority may do
22 any of the following:

23 (a) Adopt bylaws for the regulation of its affairs and
24 the conduct of its business.

25 (b) Adopt an official seal.

26 (c) Sue and be sued in its own name.

27 (d) Receive and accept from any agency of the United
28 States or any agency of the State of California or any
29 municipality, county or other political subdivision
30 thereof, or from any individual, association, or
31 corporation gifts, grants, or donations of moneys for
32 achieving any of the purposes of this chapter.

33 (e) Engage the services of private consultants to
34 render professional and technical assistance and advice in
35 carrying out the purposes of this part.

36 (f) Determine the location and character of any
37 project to be financed under this part, and to acquire,
38 construct, enlarge, remodel, renovate, alter, improve,
39 furnish, equip, fund, finance, own, maintain, manage,
40 repair, operate, lease as lessee or lessor and regulate the

1 same, to enter into contracts for any or all of those
2 purposes, to enter into contracts for the management and
3 operation of a project or other health facilities owned by
4 the authority, and to designate a participating health
5 institution as its agent to determine the location and
6 character of a project undertaken by that participating
7 health institution under this chapter and as the agent of
8 the authority, to acquire, construct, enlarge, remodel,
9 renovate, alter, improve, furnish, equip, own, maintain,
10 manage, repair, operate, lease as lessee or lessor and
11 regulate the same, and as the agent of the authority, to
12 enter into contracts for any or all of those purposes,
13 including contracts for the management and operation of
14 that project or other health facilities owned by the
15 authority.

16 (g) Acquire, directly or by and through a participating
17 health institution as its agent, by purchase solely from
18 funds provided under the authority of this part, or by gift
19 or devise, and to sell, by installment sale or otherwise, any
20 lands, structures, real or personal property, rights,
21 rights-of-way, franchises, easements, and other interests
22 in lands, including lands lying under water and riparian
23 rights, which are located within the state the authority
24 determines necessary or convenient for the acquisition,
25 construction, or financing of a health facility or the
26 acquisition, construction, financing, or operation of a
27 project, upon the terms and at the prices considered by
28 the authority to be reasonable and which can be agreed
29 upon between the authority and the owner thereof, and
30 to take title thereto in the name of the authority or in the
31 name of a participating health institution as its agent.

32 (h) Receive and accept from any source loans,
33 contributions, or grants for, or in aid of, the construction,
34 financing, or refinancing of a project or any portion of a
35 project in money, property, labor, or other things of
36 value.

37 (i) Make secured or unsecured loans to, or purchase
38 secured or unsecured loans of, any participating health
39 institution in connection with the financing of a project
40 or working capital in accordance with an agreement

1 between the authority and the participating health
2 institution. However, no loan to finance a project shall
3 exceed the total cost of the project, as determined by the
4 participating health institution and approved by the
5 authority. Funds for secured loans may be provided from
6 the California Health Facilities Financing Fund pursuant
7 to subdivision (b) of Section 15439 to small or rural health
8 facilities pursuant to authority guidelines.

9 (j) Make secured or unsecured loans to, or purchase
10 secured or unsecured loans of, any participating health
11 institution in accordance with an agreement between the
12 authority and the participating health institution to
13 refinance indebtedness incurred by that participating
14 health institution in connection with projects undertaken
15 or for health facilities acquired or for working capital
16 ~~financed prior to or after January 1, 1980.~~ Funds for
17 secured loans may be provided from the California
18 Health Facilities Financing Fund pursuant to subdivision
19 (b) of Section 15439 to small or rural health facilities
20 pursuant to authority guidelines.

21 (k) Mortgage all or any portion of interest of the
22 authority in a project or other health facilities and the
23 property on which that project or other health facilities
24 are located, whether owned or thereafter acquired,
25 including the granting of a security interest in any
26 property, tangible or intangible, and to assign or pledge
27 all or any portion of the interests of the authority in
28 mortgages, deeds of trust, indentures of mortgage or trust
29 or similar instruments, notes, and security interests in
30 property, tangible or intangible, of participating health
31 institutions to which the authority has made loans, and
32 the revenues therefrom, including payments or income
33 from any thereof owned or held by the authority, for the
34 benefit of the holders of bonds issued to finance the
35 project or health facilities or issued to refund or refinance
36 outstanding indebtedness of participating health
37 institutions as permitted by this part.

38 (l) Lease to a participating health institution the
39 project being financed or other health facilities conveyed
40 to the authority in connection with that financing, upon

1 the terms and conditions the authority determines
2 proper, and to charge and collect rents therefor and to
3 terminate the lease upon the failure of the lessee to
4 comply with any of the obligations of the lease; and to
5 include in that lease, if desired, provisions granting the
6 lessee options to renew the term of the lease for the
7 period or periods and at the rent, as determined by the
8 authority, to purchase any or all of the health facilities or
9 that upon payment of all of the indebtedness incurred by
10 the authority for the financing of that project or health
11 facilities or for refunding outstanding indebtedness of a
12 participating health institution, then the authority may
13 convey any or all of the project or the other health
14 facilities to the lessee or lessees thereof with or without
15 consideration.

16 (m) Charge and equitably apportion among
17 participating health institutions, the administrative costs
18 and expenses incurred by the authority in the exercise of
19 the powers and duties conferred by this part.

20 (n) Obtain, or aid in obtaining, from any department
21 or agency of the United States or of the State of California
22 or any private company, any insurance or guarantee as to,
23 or of, or for the payment or repayment of, interest or
24 principal, or both, or any part thereof, on any loan, lease,
25 or obligation, or any instrument evidencing or securing
26 the loan, lease, or obligation, made or entered into
27 pursuant to this part; and notwithstanding any other
28 provisions of this part, to enter into any agreement,
29 contract, or any other instrument whatsoever with
30 respect to that insurance or guarantee, to accept payment
31 in the manner and form as provided therein in the event
32 of default by a participating health institution, and to
33 assign that insurance or guarantee as security for the
34 authority's bonds.

35 (o) Enter into any and all agreements or contracts,
36 including agreements for liquidity and credit
37 enhancement, interest rate swaps or hedges, execute any
38 and all instruments, and do and perform any and all acts
39 or things necessary, convenient, or desirable for the



1 purposes of the authority or to carry out any power
2 expressly granted by this part.

3 (p) Invest any moneys held in reserve or sinking
4 funds, or any moneys not required for immediate use or
5 disbursement, at the discretion of the authority, in any
6 obligations authorized by the resolution authorizing the
7 issuance of the bonds secured thereof or authorized by
8 law for the investment of trust funds in the custody of the
9 Treasurer.

10 ~~(q) Establish and maintain a reciprocal insurance~~
11 ~~company or an insurance program that shall be treated~~
12 ~~and licensed as a reciprocal insurance company for~~
13 ~~regulatory purposes under the Insurance Code on behalf~~
14 ~~of one or more participating health institutions, to~~
15 ~~provide for payment of judgments, settlement of claims,~~
16 ~~expense, loss and damage that arises, or is claimed to have~~
17 ~~arisen, from any act or omission of, or attributable to, the~~
18 ~~participating health institution or any nonprofit~~
19 ~~organization controlled by, or controlling or under~~
20 ~~common control with, the participating health~~
21 ~~institution, their employees, agents or others for whom~~
22 ~~they may be held responsible, in connection with any~~
23 ~~liability insurance (including medical malpractice); set~~
24 ~~premiums, ascertain loss experience and expenses and~~
25 ~~determine credits, refunds, and assessments; and~~
26 ~~establish limits and terms of coverage; and engage any~~
27 ~~expert or consultant it deems necessary or appropriate to~~
28 ~~manage or otherwise assist with the insurance company~~
29 ~~or program; and pay any expenses in connection~~
30 ~~therewith; and contract with the participating health~~
31 ~~institution or institutions for insurance coverage from the~~
32 ~~insurance company or program and for the payment of~~
33 ~~any expenses in connection therewith including any~~
34 ~~bonds issued to fund or finance the insurance company or~~
35 ~~program.~~

36 ~~(r) Provide funding for self-insurance for~~
37 ~~participating health institutions. However, there shall be~~
38 ~~no pooling of liability risk among participating health~~
39 ~~institutions except as provided in subdivision (f) of~~
40 ~~Section 15438.5.~~

~~(s) (1) Make grants-in-aid to any participating small or rural hospital, as defined in Section 124840 of the Health and Safety Code, in connection with the financing of a project or for working capital in accordance with an agreement between the authority and the hospital. However, no grant to finance a project shall exceed the total cost of the project, as determined by the hospital and approved by the authority.~~

~~(2) Make grants-in-aid to any small or rural hospital, as defined in Section 124840 of the Health and Safety Code, in accordance with an agreement between the authority and the hospital to discharge indebtedness incurred by the hospital in connection with projects undertaken, for health facilities acquired, or for working capital financed prior to the effective date of this subdivision.~~

~~(3) Grants shall be made pursuant to this subdivision only from HELP Program funds, not to exceed eight hundred seventy thousand dollars (\$870,000). In consultation with representatives of the hospital industry and other affected parties, the authority shall develop a process and criteria for making grants under this subdivision, including obtaining legal opinions on appropriateness of grants to private facilities for capital outlay purposes.~~

~~SEC. 3. Section 15438.1 of the Government Code is repealed.~~

~~15438.1. (a) No project shall be eligible for approval under this part unless a certificate of need has first been obtained pursuant to Chapter 1 (commencing with Section 127125) of Part 2 of Division 107 of the Health and Safety Code, a certificate of exemption has been obtained pursuant to those provisions, or the project is otherwise exempt from certificate of need or certificate of exemption review and approval.~~

~~(b) Notwithstanding any other provision of law, on and after January 1, 1987, subdivision (a) is indefinitely suspended. The suspension shall remain in effect for as long as the suspension specified in subdivision (a) of Section 127300 of the Health and Safety Code continues in existence.~~

1 SEC. 4. Section 15438.5 of the Government Code is
2 amended to read:

3 15438.5. (a) It is the intent of the Legislature in
4 enacting this part to provide financing only, and, except
5 as provided in subdivisions (b), (c), and (d), only to
6 health facilities which can demonstrate the financial
7 feasibility of their projects without regard to the more
8 favorable interest rates anticipated through the issuance
9 of revenue bonds under this part. It is further the intent
10 of the Legislature that all or part of any savings
11 experienced by a participating health institution, as a
12 result of that tax-exempt revenue bond funding, be
13 passed on to the consuming public through lower charges
14 or containment of the rate of increase in hospital rates. It
15 is not the intent of the Legislature in enacting this part to
16 encourage unneeded health facility construction.
17 Further, it is not the intent of the Legislature to authorize
18 the authority to control or participate in the operation of
19 hospitals, except where default occurs or appears likely to
20 occur.

21 (b) When determining the financial feasibility of
22 projects for county health facilities, the authority shall
23 consider the more favorable interest rates reasonably
24 anticipated through the issuance of revenue bonds under
25 this part. It is the intent of the Legislature that the
26 authority attempt in whatever ways possible to assist
27 counties to arrange projects which will meet the financial
28 feasibility standards developed under this part.

29 (c) The authority may issue revenue bonds pursuant
30 to this part to finance the development of a multilevel
31 facility, or any portion of a multilevel facility, including
32 the portion licensed as a residential facility for the elderly,
33 if the skilled nursing facility, intermediate care facility, or
34 general acute care hospital is operated or provided by an
35 eligible participating health institution.

36 ~~(d) The authority may issue revenue bonds pursuant~~
37 ~~to this part, if the bonds rank in either of the two highest~~
38 ~~rating categories established by a nationally recognized~~
39 ~~bond rating organization, to finance working capital for~~
40 ~~a participating health institution provided or operated by~~

1 ~~a city, city and county, county, or district hospital~~
2 ~~authorized by the laws of this state to provide or operate~~
3 ~~a health facility and which, pursuant to this part,~~
4 ~~undertakes financing or refinancing as provided in this~~
5 ~~part.~~

6 ~~(e) The financing or refinancing of projects or~~
7 ~~working capital for cities, cities and counties, counties, or~~
8 ~~hospital districts may be provided pursuant to this part by~~
9 ~~means other than revenue bonds, at the discretion of the~~
10 ~~authority, including, without limitation, through~~
11 ~~certificates of participation, or other interests, in bonds,~~
12 ~~loans, leases, installment sales or other agreements of the~~
13 ~~cities, city and county, counties or hospital districts. In this~~
14 ~~connection, the authority may do all things and execute~~
15 ~~and deliver all documents and instruments as may be~~
16 ~~necessary or desirable in connection with issuance of the~~
17 ~~certificates of participation or other means of financing or~~
18 ~~refinancing.~~

19 ~~(f) Any self-insurance pooling program entered into~~
20 ~~by participating health institutions which are cities,~~
21 ~~counties, cities and counties, or hospital districts which is~~
22 ~~funded or financed in whole or in part with proceeds of~~
23 ~~the sale of revenue bonds or certificates of participation~~
24 ~~pursuant to this part shall not be subject to regulation of~~
25 ~~any kind under the Insurance Code or otherwise as~~
26 ~~insurance, but only any conditions and restrictions as may~~
27 ~~be imposed by the authority.~~

28 ~~(g) If a health facility seeking financing for a project~~
29 ~~pursuant to this part does not meet the guidelines~~
30 ~~established by the authority with respect to bond rating,~~
31 ~~the authority may nonetheless give special consideration,~~
32 ~~on a case-by-case basis, to financing the project if the~~
33 ~~health facility demonstrates to the satisfaction of the~~
34 ~~authority the financial feasibility of the project, and the~~
35 ~~performance of significant community service. For the~~
36 ~~purposes of this part, a health facility which performs a~~
37 ~~significant community service is one that contracts with~~
38 ~~Medi-Cal or that can demonstrate, with the burden of~~
39 ~~proof being on the health facility, that it has fulfilled at~~
40 ~~least two of the following criteria:~~

1 (1) On or before January 1, 1991, has established, and
2 agrees to maintain, a 24-hour basic emergency medical
3 service open to the public with a physician and surgeon
4 on duty, or is a children's hospital as defined in Section
5 14087.21 of the Welfare and Institutions Code, which
6 jointly provides basic or comprehensive emergency
7 services in conjunction with another licensed hospital.
8 This criterion shall not be utilized in a circumstance
9 where a small and rural hospital, as defined in Section
10 442.2 of the Health and Safety Code, has not established
11 a 24-hour basic emergency medical service with a
12 physician and surgeon on duty; or will operate a
13 designated trauma center on a continuing basis during
14 the life of the revenue bonds issued by the authority.

15 (2) Has adopted, and agrees to maintain on a
16 continuing basis during the life of the revenue bonds
17 issued by the authority, a policy, approved and recorded
18 by the facility's board of directors, of treating all patients
19 without regard to ability to pay, including, but not limited
20 to, emergency room walk-in patients.

21 (3) Has provided and agrees to provide care, on a
22 continuing basis during the life of the revenue bonds
23 issued by the authority, to Medi-Cal and uninsured
24 patients in an amount not less than 5 percent of the
25 facility's adjusted inpatient days as reported on an annual
26 basis to the Office of Statewide Health Planning and
27 Development.

28 (4) Has budgeted at least 5 percent of its net operating
29 income to meeting the medical needs of uninsured
30 patients and to providing other services, including, but
31 not limited to, community education, primary care
32 outreach in ambulatory settings, and unmet nonmedical
33 needs, such as food, shelter, clothing, or transportation for
34 vulnerable populations in the community, and agrees to
35 continue that policy during the life of the revenue bonds
36 issued by the authority.

37 On or before January 1, 1992, the authority shall report
38 to the Legislature regarding the implementation of this
39 subdivision. The report shall provide information on the
40 number of applications for financing sought under this

subdivision, the number of applications approved and denied under this subdivision, and a brief summary of the reason for any denial of an application submitted under this subdivision.

~~(h)~~

(e) Enforcement of the conditions under which the authority issues bonds pursuant to this section shall be governed by the enforcement conditions under Section 15459.4.

SEC. 5. Section 15439 of the Government Code is amended to read:

15439. (a) The California Health Facilities Authority Fund is continued in existence in the State Treasury as the California Health Facilities Financing Authority Fund. All money in the fund is hereby continuously appropriated to the authority for carrying out the purposes of this division. The authority may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this part, *or any particular secured or unsecured loan made pursuant to subdivision (i) or (j) of Section 15438*, and, for that purpose or as necessary or convenient to the accomplishment of any other purpose of the authority, may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this part from whatever source shall be deposited in the fund.

(b) Subject to the priorities which may be created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and subject further to the cost of loans provided by the authority pursuant to subdivisions (i) and (j) of Section 15438, and subject further to any reasonable costs which may be incurred by the authority in administering the program authorized by this division, all moneys in the fund derived from any source shall be held in trust for the security and payment of bonds of the authority and shall not be used or pledged for any other purpose so long as such bonds are outstanding and unpaid. However, nothing in this section shall limit the power of the authority to make loans with

1 the proceeds of bonds in accordance with the terms of the
2 resolution authorizing the same.

3 (c) Pursuant to any agreements with the holders of
4 particular bonds pledging any particular assets, revenues,
5 or moneys, the authority may create separate accounts in
6 the fund to manage assets, revenues, or moneys in the
7 manner set forth in the agreements.

8 (d) The authority may, from time to time, direct the
9 State Treasurer to invest moneys in the fund which are
10 not required for its current needs, including proceeds
11 from the sale of any bonds, in the eligible securities
12 specified in Section 16430 as the agency shall designate.
13 The authority may direct the State Treasurer to deposit
14 moneys in interest-bearing accounts in state or national
15 banks or other financial institutions having principal
16 offices in this state. The authority may alternatively
17 require the transfer of moneys in the fund to the Surplus
18 Money Investment Fund for investment pursuant to
19 Article 4 (commencing with Section 16470) of Chapter 3
20 of Part 2 of Division 4. All interest or other increment
21 resulting from an investment or deposit shall be
22 deposited in the fund, notwithstanding Section 16305.7.
23 Moneys in the fund shall not be subject to transfer to any
24 other fund pursuant to any provision of Part 2
25 (commencing with Section 16300) of Division 4,
26 excepting the Surplus Money Investment Fund.

27 (e) All moneys accruing to the authority from
28 whatever source shall be deposited in the fund.

29 SEC. 6. Section 15440 of the Government Code is
30 amended to read:

31 15440. All expenses of the authority incurred in
32 carrying out the provisions of this part shall be payable
33 solely from funds provided pursuant to this part, and no
34 liability shall be incurred by the authority beyond the
35 extent to which moneys shall have been provided under
36 this part; ~~except that for the purposes of meeting the~~
37 ~~necessary expenses of initial organization and operation~~
38 ~~of the authority for the period commencing on January 1,~~
39 ~~1980, and continuing until such date as the authority~~
40 ~~derives moneys from funds provided to it under the~~

~~provisions of this part, the authority may borrow such moneys as the authority may require. Such moneys borrowed by the authority shall subsequently be charged to and apportioned among participating health facilities in an equitable manner and the moneys repaid with appropriate interest over a reasonable period of time.~~

SEC. 7. Section 15441 of the Government Code is amended to read:

15441. (a) The authority is authorized, from time to time, to issue its negotiable revenue bonds in order to provide funds for achieving any of its purposes under this part.

(b) Except as may otherwise be expressly provided by the authority, each of its revenue bonds shall be payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Notwithstanding that such revenue bonds may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds for registration.

(c) The authority's revenue bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance of all revenue bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding ~~40~~ 60 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as the indenture, trust agreement, or resolution relating to such revenue bonds may provide. The authority's revenue bonds or notes may be sold by the Treasurer at public or private sale, after giving due consideration to the recommendation of the participating health institution, for such price or prices

1 and upon such terms and conditions as the authority shall
2 determine. The Treasurer may sell any such revenue
3 bonds at a price below the par value thereof. However,
4 the discount on any bonds so sold shall not exceed 6
5 percent of the par value thereof, except in the case of any
6 bonds payable in whole or in part from moneys held
7 under one or more outstanding resolutions or indentures.
8 Pending preparation of the definitive bonds, the
9 authority may issue interim receipts or certificates or
10 temporary bonds which shall be exchanged for such
11 definitive bonds.

12 (d) Any resolution or resolutions authorizing the
13 issuance of any revenue bonds or any issue of revenue
14 bonds may contain provisions, which shall be a part of the
15 contract with the holders of the bonds to be authorized,
16 as to pledging all or any part of the revenues of a project
17 or any revenue-producing contract or contracts made by
18 the authority with any individual, partnership,
19 corporation or association or other body, public or
20 private, to secure the payment of the bonds or of any
21 particular issue of bonds.

22 (e) Neither the members of the authority nor any
23 person executing the revenue bonds shall be liable
24 personally on the bonds or be subject to any personal
25 liability or accountability by reason of the issuance
26 thereof.

27 (f) The authority shall have power out of any funds
28 available therefor to purchase its bonds. The authority
29 may hold, pledge, cancel or resell such bonds, subject to
30 and in accordance with agreements with bondholders.

31 SEC. 8. Section 15461 of the Government Code is
32 repealed.

33 ~~15461. Of the initial seven hundred sixty-seven~~
34 ~~million dollars (\$767,000,000) of bonds outstanding, as~~
35 ~~authorized by this part, not less than one hundred~~
36 ~~seventeen million dollars (\$117,000,000) shall be made~~
37 ~~available to participating health institutions which seek~~
38 ~~the financing or refinancing of projects providing~~
39 ~~services predominantly to existing members and~~
40 ~~reasonably anticipated members of health maintenance~~

~~organizations which are qualified pursuant to Title XIII of the Public Health Service Act (42 U.S.C., Sec. 300e et seq.).~~

SEC. 9. Section 15463 of the Government Code is repealed.

~~15463. (a) There is hereby created in the State Treasury, the County Health Facilities Financing Assistance Fund which, notwithstanding Section 13340, is continuously appropriated for the purposes of this section.~~

~~(b) (1) The Controller shall transfer the following amounts to the fund:~~

~~(A) The unencumbered balances from appropriations pursuant to Sections 16702 and 16703 of the Welfare and Institutions Code from the 1981-82, 1982-83, and 1983-84 fiscal years, and each fiscal year thereafter, except any funds appropriated by the Legislature to the State Department of Health Services pursuant to subdivisions (a) and (e) of Section 16707 of the Welfare and Institutions Code and any funds contained in the County Medical Services Program Account or the County Medical Services Program Reserve Account established pursuant to Section 16709 of the Welfare and Institutions Code.~~

~~(B) Ten million dollars (\$10,000,000) from that portion of the funds in the Special Account for Capital Outlay in the General Fund which is designated for county health authority local assistance.~~

~~(2) Notwithstanding any other provision of law, out of the amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), the Controller shall transfer ten million dollars (\$10,000,000) to the fund.~~

~~(c) Moneys in the fund shall be utilized by the authority to provide assistance to counties to pay the debt service on loans for, or otherwise assist in the financing of, facilities, as defined in paragraph (8) of subdivision (d) of Section 15432, by doing any of the following:~~

~~(1) Paying not more than 50 percent of the debt service on loans for those facilities or on revenue bonds~~

~~issued by the authority to finance those facilities, as determined by the authority.~~

~~(2) Paying the cost of insurance, letters of credit, lines of credit, or by utilizing other financial devices to enhance the credit of counties in order to secure the payment of debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities.~~

~~(3) Paying costs, fees, and expenses incurred by counties or the authority in connection with issuing, carrying, or repaying the revenue bonds or financing, acquiring, or constructing those facilities.~~

~~(4) Providing any other financial assistance or support for those facilities, including, but not limited to, payment of any outstanding indebtedness of the county for, or secured by, those facilities, as determined necessary by the authority to carry out the purpose of this subdivision.~~

~~(d) The authority may create separate accounts within the fund for each facility assisted pursuant to subdivision (c) or for each assistance program.~~

~~(e) Any moneys in the fund which are not required for immediate use or disbursement, as determined by the authority, may be invested in any obligations, as specified, by the authority, including, but not limited to, obligations that are exempt from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1954, as amended, and direct obligations of the United States issued in book entry form.~~

~~(f) Notwithstanding any other provision of law, interest earned on the investment of moneys in the fund shall be credited to the fund and shall be available for the purposes specified in subdivision (e).~~

SEC. 10. Section 127300 of the Health and Safety Code is amended to read:

127300. ~~(a)~~Notwithstanding any other provision of law, on and after January 1, 1987, the requirement that health facilities and specialty clinics apply for, and obtain, certificates of need or certificates of exemption is indefinitely suspended.

1 ~~(b) Notwithstanding any other provision of law, the~~
2 ~~requirements of Section 15438.1 of the Government Code~~
3 ~~shall be suspended for the period of time specified for the~~
4 ~~suspension in subdivision (a).~~

O

